THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.NO.19969 OF 2005

Dated 09-11-2005

Between:

V.Sammi Reddy

…Petitioner

And

The District Collector, Karimnagar

and others.

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.NO.19969 OF 2005

ORDER:

The petitioner is employed as Work Inspector in the District Schedule Caste Services Co-operative Society Limited, Karimnagar, the 1st respondent, and is working in the office of the 2nd respondent. He challenges the action of the respondents in not regularizing his services, as Work Inspector Grade-II, with effect from 15-06-1993, as illegal.

The petitioner was engaged as Work Inspector on daily-wage basis, on 15-06-1988. His services were terminated within one year thereafter. Himself and another Work Inspector, by name, Mohd.Abdul Safdar, filed W.P.No.5393 of 1989. An interim order was granted on 17-04-1989, and they were being continued on daily-wage basis.

When W.P.No.5393 of 1989 was pending, Writ Petitions, being W.P.No.13094 of 1990 and batch, came to be filed, in relation to the regularization of daily-wage Work Inspectors, in the respondents- society, in terms of G.O.Ms.No.212, dated 22-04-1994. The said batch of writ petitions was allowed, directing that daily-wage Work Inspectors shall be paid the wages and allowances attached to the post and that they be absorbed in terms of G.O.Ms.No.212. W.P.No.5393 of 1989 was allowed, following the judgment in the said batch of writ petitions. One of the directions was that, the services of the petitioner shall be regularized with effect from the date on which, he completes five years of service.

In compliance with the directions issued by this Court in the said writ petition, the 1st respondent passed an order dated

30-01-1997, regularizing the services of the petitioner as Work Inspector Grade-II,

with effect from the date of the order in the scale of Rs.1595 --3020.

The petitioner claims that he made several representations to the respondents for regularization of his services with effect from
15-06-1993, on which date he completed five years of service as daily-wage Work Inspector. He contends that even while his representation was pending, the 1st respondent issued proceedings, dated 18-05-2001, extending the benefit of regularization of services to five Work Inspectors, with effect from the date on which, they have completed five years of service. It is also stated that the order dated 30-01-1997, passed in favour of the petitioner, was taken as the basis, and while five other candidates was extended benefit of regularization with effect from the date on which they completed five years of service, the petitioner was denied such a benefit.

In the counter affidavit filed on behalf of the respondents, the only ground pleaded for denying such benefit to the petitioner is, that the petitioner holds L.C.E qualification, and not B.E. degree. Some financial constrains are also pleaded.

Learned counsel for the petitioner submits that the action of the respondents is not only discriminatory, but also contrary to the terms of G.O.Ms.No.212, dated 22-04-1994, and the judgment of this Court. He contends that there was no basis for the respondents to accord discriminatory treatment, in the matter of regularization.

Learned counsel for the respondents, on the other hand, submits that the petitioner did not raise any objection when his services were regularized in the year 1997, and it is not possible to him, to raise any objection, at this stage. He has also repeated the contents of the counter affidavit.

The narrow controversy in this writ petition is, as to whether the petitioner is entitled to be regularized with effect from the date on which he completed five years of service.

W.P.No.5393 of 1989 filed by the petitioner, was allowed by this Court with the

following directions:

i. "The Writ petition is allowed in part.

ii. The first respondent-Corporation is directed to pay the petitioners the wages and allowances attached to the posts in which the petitioners are presently working with effect from the dates on which they were appointed on daily wage basis;

iii. The first respondent-Corporation is further directed to regularize the services of the petitioners in terms of G.O.Ms.No.212, dated 22-04-1994 with effect from the date or dates they have completed five years of continuous service and they shall be paid wages (obviously not less than minimum wages) on part with the wages paid to the permanent employees of their category."

There was absolutely no ambiguity, as to the date in which, the petitioner completed five years of service.

However, vide proceedings dated 30-01-1997, the respondents regularized the services of the petitioner, with effect from the date of the order. Had the respondents stuck to the stand, that the regularization shall be only prospective in nature, and not retrospective; the validity of the same would have been considered from a different angle. However, they passed an order on 18-05-2001, in respect of five Work Inspectors, who were too were working on daily wage basis. The nature of relief granted to them is as under:

> "[T] he services of the following 5 persons working as daily wage workers (NMR) are regularized in the cadre of Work Inspectors against the vacant posts existing in the Engineering Wing of DSCSCS Ltd., Karimnagar w.e.f. the date of completion of 5 years of service on or before 25-11-1993, as detailed below".

It is apt to note that for extending this benefit, the respondents relied upon the order passed in favour of the petitioner. The order reads as under:

> "Keeping in view the fact that the services of two juniors to the representationists, namely S/Sri V.Sammi Reddy and S.Purushotham have been regularized, their claim deserves to be considered as per the orders of the Hon'ble Court/Hon'ble Supreme Court referred to above".

When the respondents extended the benefit of regularization of services, with

effect from the date of completion of five years, to the persons, who were similarly situated as the petitioner, there was no justification for them to deny such a benefit to the petitioner. The fact that some of the said five persons possessed B.E. qualification, and that the petitioner holds only L.C.E certificate, hardly becomes relevant, or makes any difference. It is not in dispute that the petitioner holds the qualification required for the post. Therefore, the action of the respondents is clearly discriminatory and violative of Articles 14 and 16 of the Constitution of India.

Though this Court holds that the petitioner is entitled to be regularised with effect from the date on which he completed five years of service, it is not inclined to grant the consequential monetary benefit, for the reason that the petitioner did not pursue the remedy with required promptitude.

For the foregoing reasons, the writ petition is allowed, directing that the respondents shall regularize the services of the petitioner with effect from the date on which he completed five years of service, as was done through their order dated 18-05-2001. It is, however, directed that such a measure shall ensue in to the benefit of the petitioner only for the purposes of seniority and length of service for calculation of retirement benefits. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.09-11-2005

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